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FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				ALVAREZ, RAQUEL
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JUSTIN T. NGUYEN, JOHN CHANG,
JOSEPH CHEN, RAYMOND THACKERAY,
HOSELITO STANOVIC, BRUCE LEONG, and
ADAM GOODRICH

Appeal 2009-013905
Application 10/785,382
Technology Center 3600

Before HUBERT C. LORIN, ANTON W. FETTING, and
KEVIN F. TURNER, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION ON APPEAL¹

STATEMENT OF CASE

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants seek our review under 35 U.S.C. § 134 of the Final Rejection of claims 1-25 and 52-68. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We REVERSE.²

THE INVENTION

Appellants' claimed invention relates to a method, system, and computer program product for event planning which provides a web-based graphical user interface. The system *inter alia* invites guests, solicits RSVP fees from invitees who respond affirmatively, receives the RSVP fees, tracks the RSVP status of each invited guest, and verifies the RSVP payment information. (Spec. 2, ll. 20-24.)

Independent claim 1 which is deemed to be representative, reads as follows:

1. An event planning process executed by a server system in a computer network including a plurality of user terminals communicatively coupled with the server system via the network, the process comprising the steps of:
 - providing an event planning graphical user interface at a user terminal, the interface enabling a user to plan an event;

² Our decision will make reference to the Appellants' Appeal Briefs ("App. Br.," filed Jan. 31, 2008 and Mar. 11, 2008) and Reply Brief ("Reply Br.," filed Jun. 10, 2008), and the Examiner's Answer ("Ans.," mailed Apr. 10, 2008).

receiving event information input by the user, said event information indicating a scheduled event, at least one invitee to be invited to said scheduled event and information indicative of RSVP fees required to attend said scheduled event;

providing an invitation to said invitee, said invitation indicating said scheduled event and said RSVP fees, and soliciting a response to said invitation, wherein an affirmative response to said invitation requires a payment as defined by said RSVP fees;

receiving RSVP status information including payment information from said invitee; and verifying said payment information.

(App. Br. 18.)

THE REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Rasansky et al. 5,960,406 Sep. 28, 1999

Leukemia Society: Cocktail Party to Benefit Linsey Smith – 10 Year Old Leukemia Patient, Business Wire, Sep. 18, 1997. (Hereinafter “Leukemia Society”)

The Examiner rejected claims 1-25 and 52-68 under 35 U.S.C. § 103(a) as being unpatentable over Rasansky and Leukemia Society.³

ARGUMENTS

The Examiner found that Rasansky teaches all the claimed limitations of independent claims 1, 60, and 68, including “receiving a response to said

³ The Examiner improperly lists claims 1-25, 52-66, and 68 as rejected under 35 U.S.C. § 103(a) as being unpatentable over Rasansky and Leukemia Society. (Ans. 3.) However, the Examiner does subsequently address independent claim 67 under this same rejection. (Ans. 4.)

invitation,” but the Examiner concluded that Rasansky “doesn't specifically teach requiring RSVP fees to attend said scheduled event and an affirmative response to said invitation requir[ing] a payment as defined by said RSVP fees.” (Ans. 3-4.) To address these limitations, the Examiner relied on Leukemia Society which teaches a traditional invitation to a party to benefit a Leukemia patient. (Ans. 4.)

In response, the Appellants argue that the invitation taught by Leukemia Society does not teach or suggest that a RSVP “requires a payment as defined by said RSVP fees” and “receiving and verifying RSVP payment information from invitees.” (App. Br. 11.)

ISSUE

Does the combination of Rasansky and Leukemia Society teach or suggest that a RSVP “requires a payment as defined by said RSVP fees” and “receiving and verifying RSVP payment information from invitees,” as generally claimed by independent claims 1, 60, and 68 under 35 U.S.C. § 103(a)?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by at least a preponderance of the evidence. *In re Caveney*, 761 F.2d 671, 674 (Fed. Cir. 1985) (explaining the general evidentiary standard for proceedings before the Office).

Claim Interpretation

1. Appellants’ Specification describes “payment information” to be credit card information. (Spec. 17, ll. 5-6.)

Rasansky

2. Rasansky is directed to a web-based system for scheduling events between users. The system includes a calendar which is generated from information stored in a database at a central server, and delivered to users as standard HTML sent through the Internet. (Abs.)

Leukemia Society

3. Leukemia Society is a Business Wire article which describes a traditional invitation to a party to benefit a Leukemia patient. (p. 1.)

4. Leukemia Society discloses a RSVP contact person with a telephone number and a donation which it describes as an “Admission Fee of \$10.” (p. 1.)

PRINCIPLES OF LAW

Obviousness

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary

considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966); *see also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”)

ANALYSIS

Claims 1-25 and 52-68 rejected under 35 U.S.C. § 103(a) as being unpatentable over Rasansky and Leukemia Society.

Appellants argue that the combination of Rasansky and Leukemia Society fails to teach or suggest “an event planning process that enables an event planner to provide an invitation to an invitee based on information provided by the planner, an affirmative response to the invitation requiring a payment of a RSVP fee, and verifies the RSVP fee payment,” as generally recited by independent claims 1, 60, and 68. (App. Br. 10-12.) Specifically, Appellants argue that the invitation taught by Leukemia Society does not teach or suggest that a RSVP “requires a payment as defined by said RSVP fees” and “receiving and verifying RSVP payment information from invitees.” (App. Br. 11.)

In response, the Examiner finds that “Leukemia Society clearly teaches an invitation to Cocktail Party to Benefit Linsey Smith---a 10 year old with Leukemia, the invitation requires an admission fee of \$10.00 to be RSVP to Deborah Lee, the receipt of \$10.00 admission fee is the affirmative response that the invitee will attend the event. [sic]” (Ans. 7.) We cannot agree.

While we agree with the Examiner that Leukemia Society teaches a RSVP, we cannot agree with the Examiner that Leukemia Society teaches that “an affirmative response to said invitation requires a payment as defined by said RSVP fees” and that “receiving RSVP status information includ[es] information from said invitee,” as presently claimed by Appellants. Rather, we find that Leukemia Society teaches a RSVP contact and a donation or “admission fee of \$10” (FF 4) to attend the benefit, but does not teach that the RSVP information received by the RSVP contact includes payment information which Appellants’ Specification describes as credit card information. (FF 1.) Additionally, while an invitee may respond to the RSVP contact of Leukemia Society, neither reference teaches that an affirmative response to that RSVP would include payment fees at that time in a manner commensurate with Appellants’ claims, nor do we find this step to be obvious in view of the disclosures. Furthermore, the Examiner has not explicitly addressed the step of “verifying said payment information” and we are unable to find a teaching in either Rasansky or Leukemia Society that addresses this limitation.

Therefore, we agree with Appellants arguments that the combination of Rasansky and Leukemia Society fails to teach or suggest that a RSVP “requires a payment as defined by said RSVP fees” and “receiving and verifying RSVP payment information from invitees,” as generally recited by independent claims 1, 60, and 68.

Accordingly, we find that the rejection of claims 2-25, 52-59, and 61-67 which depend from claims 1 and 60, respectively, was also made in error for the same reasons discussed *supra*.

CONCLUSION OF LAW

We conclude that the combination of Rasansky and Leukemia Society fails to teach or suggest that a RSVP “requires a payment as defined by said RSVP fees” and “receiving and verifying RSVP payment information from invitees,” as generally claimed by independent claims 1, 60, and 68 under 35 U.S.C. § 103(a).

DECISION

The decision of the Examiner to reject claims 1-25 and 52-68 is REVERSED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2007).

REVERSED

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